IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P No. 3682 of 2006

Date of decision : October 04 , 2007

Parmod Petroleum Industries, village Asawarpur,
Tehsil and District Sonepat.

.....Petitioner

through Mr.Ashok Sharma Nabhewala, Advocate

v.

State of Haryana & others,

.....Respondents

through Mr.Ashish Kapoor, Addl.A.G.Haryana

CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE RAJIVE BHALLA

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1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

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RAJIVE BHALLA,J

Challenge, in this writ petition, is to the proceedings of acquisition, initiated pursuant to a notification, dated 17.11.2005, issued under Section 4 of the Land Acquisition Act, 1894 (for short herein after referred to as "the Act"), and a declaration, dated 7.2.2006, issued under Section 6 of the Act.

The State of Haryana notified its intention to acquire land for a

public purpose, namely, "for the development and utilisation of land for Residential, Commercial and Institutional Sectors 65, 66, 67 and 68, Sonepat", more particularly for development of an education city bearing the name of "Rajiv Gandhi Education City", along National Highway No.1, at Sonepat. The petitioner's land was included in the aforementioned notification. This was followed by a declaration, under Section 6 of the Act.

Counsel for the petitioner contends that the petitioner has constructed 15 rooms, a kitchen, toilets, bath rooms etc. and is running a factory in the name and style of M/S Parmod Petroleum Industries. It is contended that as construction was raised prior to the notification, under Section 4 of the Act, the respondents were obliged to exclude the petitioner's land from the scheme of acquisition.

Counsel for the State of Haryana, on the other hand, submits that the present writ petition be dismissed, as legality of the impugned notifications has been upheld by this Court in Jai Parkash v. State of Haryana & others, 2007(2) RCR (Civil) 271. It is further submitted that in the aforementioned judgment, a similar plea that constructed area could not or should not be acquired, was negatived. The said judgment has been upheld by the Hon'ble Supreme Court. It is further submitted that even otherwise, no material has been produced by the petitioner to evidence the existence of a running factory over the land in dispute. It is further submitted that in paragraphs 3 and 4 of the writ petition, the petitioner has made reference to an industry, whereas in paragraph 12, the petitioner asserts the existence of a house.

We have heard learned counsel for the parties and perused the paper book.

Admittedly, a coordinate Bench of this Court in Jai Parkash's case (supra), while considering challenge to the validity of the impugned notifications, under Sections 4 and 6 of the Act, dismissed the writ petition. The petitioner's assertion that as his running industry exists on the land in dispute, the acquisition proceedings be quashed and/or his land be released, cannot be accepted. A perusal of the averments in the writ petition do not disclose the existence of a running industry. The petitioner has failed to place on record any material that would enable us to draw an inference as to the existence of the factory/industry. The petitioner has failed to place on record any documents in the nature of bills, details of consumption of raw material, figures of production and other similar material generally associated with a running industry. The photographs, appended with the petition, do not disclose any industrial activity. A few dilapidated rooms appear to exist on the land. In our considered opinion, these rooms can, by no stretch of imagination, be said to be a running industry. It would be necessary to mention that while appearing, before the Land Acquisition Collector, in proceedings under Section 5-A of the Act, Shri Pramod Malhotra, partner of the petitioner-firm, recorded a statement that he had raised 15 rooms over the acquired land. The statement does not make any reference to any factory or industrial activity and, therefore, nullifies the petitioner's assertion that the land in dispute houses a running factory.

The award has been pronounced and as noticed herein above, challenge to the legality of the notifications, under Sections 4 & 6 of the Act, has been negatived by this Court in Jai Parkash's case (supra), and the said judgment has been upheld by the Hon'ble Supreme Court.

In view of what has been noticed herein above, we find no

merit in the present writ petition, which is dismissed with no orders as to costs.

(RAJIVE BHALLA)
JUDGE

(UMA NATH SINGH)
JUDGE

October 04, 2007
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